

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

RAYMOURS FURNITURE COMPANY, INC., D/B/A
RAYMOUR & FLANIGAN FURNITURE

Employer

and

Case No. 29-RC-12056

LOCAL 1430, INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS

Petitioner

REPORT ON OBJECTIONS

Upon a petition filed on May 5, 2011,¹ by Local 1430, International Brotherhood of Electrical Workers, herein called the Petitioner or the Union, and pursuant to a Stipulated Election Agreement executed by the Union and by Raymours Furniture Company, Inc., d/b/a Raymour and Flanigan Furniture, herein called the Employer, and approved by the undersigned on May 24, an election by secret ballot was conducted on June 15, among the employees employed in the following unit:

All full-time and regular part-time sales associates and customer care associates employed at the Raymour & Flanigan retail store located at 2795 Richmond Avenue, Staten Island, New York, but excluding visual associate, customer care manager, customer care supervisor, backroom supervisor, backroom associates, store manager, showroom managers, and all other managers, and guards and supervisors as defined in Section 2(11) of the Act.

The Tally of Ballots made available to the parties pursuant to the Board's Rules and Regulations showed the following results:

¹ All dates hereinafter are in 2011 unless otherwise indicated.

Approximate number of eligible voters	20
Number of void ballots.	0
Number of votes cast for Petitioner	7
Number of votes cast against participating labor organizations.	10
Number of valid votes counted	17
Number of challenged ballots	2
Number of valid votes counted plus challenged ballots .	19

Challenges are not sufficient in number to affect the results of the election.

A majority of the valid votes counted plus challenged ballots has not been cast for Local 1430, International Brotherhood of Electrical Workers.

Thereafter, on June 22, the Union filed timely objections to conduct affecting the results of the election. The Union's objections are attached hereto as Exhibit "A".

Pursuant to Section 102.69 of the Board's Rules and Regulations, the undersigned caused an investigation to be conducted concerning the above-mentioned objections, during which the parties were afforded full opportunity to submit evidence bearing on the issues. The undersigned also caused an independent investigation to be conducted. The investigation revealed the following:

The Employer, with a place of business located at 2795 Richmond Avenue, Staten Island, New York, herein called the Staten Island facility and the only location involved herein, is engaged in the retail sale of furniture and related goods.

THE OBJECTIONS

In its objections, the Union essentially contends that the Employer engaged in objectionable conduct by interrogating employees about their support for and involvement with the Union, soliciting grievances from employees concerning working conditions, removing the store manager for whom employees voiced discontent and replacing that manager with a bargaining unit employee, creating and distributing false campaign propaganda, threatening

employees that the Union would cause the store to close and other reprisals, surveilling employees during the campaign period and otherwise interfering with employees' ability to exercise a free and reasoned choice in the election. The Employer generally denies engaging in objectionable conduct. For the reasons noted herein, I overrule the objections in their entirety.

The independent investigation revealed that on June 22 and 29, the Assistant to the Regional Director reminded the Union in writing of its responsibility under the Board's Rules and Regulations to submit to the Board Agent assigned to the objections case, all evidence available to it sufficient to support a *prima facie* finding thereof, within 7 days of the filing of its objections, or by June 29, before the Region is required to investigate the objections. The letter further advised the Union that such evidence, at a minimum, should consist of the names of each of its witnesses for each objection, a succinct description containing specific probative content or substance of the relevant testimony of each individual, any relevant documents and its legal argument in support thereof, sufficient to establish a *prima facie* finding. The letter further referred to the requirements of Section 102.69 of the Board's Rules and Regulations and informed the Union that its failure to submit all the evidence available to it within the required time may result in the objections being deemed lacking in merit and overruled unless good cause was shown to the contrary. The independent investigation also established that the Union filed a charge against the Employer in Case No. 29-CA-30836 on June 15. The charge in Case No. 29-CA-30836 alleges, among other things, that the Employer engaged in interrogation, surveillance, and other coercive activities including threatening employees with closing if the Union won the election, allegations which are encompassed in Union Objection Nos. 1, 5, 6 and 7. On June 27, the Union submitted a letter to the Region containing only the names of three witnesses it

claimed would support its objections. The Union's letter did not provide a description of the witnesses' testimony. To date, the Region has received no specific probative evidence from the Union in support of its objections or in connection with the allegations encompassed by the unfair labor practice charge it filed on June 15, which charge contained several allegations that mirror the allegations of the objections noted above. In the absence of an offer of proof regarding the testimony of the named witnesses, the objecting party has failed to provide sufficient evidence to warrant further investigation of its objections. See *Aurora Steel Products*, 240 NLRB 46 (1979) (evidence sufficient to present a prima facie case must include dates, names of witnesses and what the witnesses might testify to on a given issue).²

Based on the foregoing, I find that the Union has failed to meet its minimum obligation to provide evidence in support of its objections as required by Section 102.69(a) of the Board's Rules and Regulations.³ Accordingly, I recommend that its objections be overruled.

SUMMARY AND RECOMMENDATIONS

In summary, I have recommended that the Union's objections be overruled in their entirety. Accordingly, the undersigned further recommends that a Certification of Results issue.

RIGHT TO FILE EXCEPTIONS

Pursuant to the provisions of Section 102.69 of the National Labor Relations Board's Rules and Regulations, Series 8 as amended, you may file exceptions to this Report with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C.

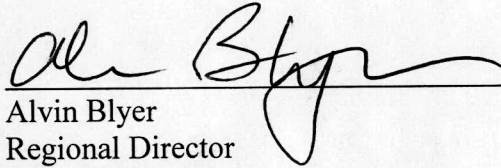
² The Board requires that a party filing objections must present evidence available to it, sufficient to establish a *prima facie* case in support of its objections. National Labor Relations Board Rules and Regulations, Section 102.69(a). Conclusionary assertions, in the absence of specific supporting evidence, do not satisfy the Board's requirements of furnishing specific evidence about specific events and persons, and further investigation is not warranted. *Audubon Cabinet Co.*, 119 NLRB 349 (1957).

³ See also, *Star Video Entertainment LP*, 290 NLRB 1010 (1988); *Goody's Family Clothing Inc.*, 308 NLRB 181 (1992); *Park Chevrolet-Geo, Inc.*, 308 NLRB 1010 (1992).

20570-0001. The Request must be received by the Board in Washington, D.C., by 5 p.m., EST on July 14, 2011.⁴ The request may **not** be filed by facsimile.

The parties are advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file the above-described exceptions electronically, please refer to the guidance which can be found under "E-Gov" on the National Labor Relations Board website: www.nlrb.gov.

Signed at Brooklyn, New York, on this 30th day of June, 2011.


Alvin Blyer
Regional Director
Region 29
National Labor Relations Board
Two MetroTech Center, 5th Floor
Brooklyn, New York 11201

⁴ Under the provisions of Section 102.69(g) (3) of the Board's Rules, documentary evidence, including affidavits, which a party has timely submitted to the Regional Director in support of its objections, and which are not included in the Regional Director's Report, are not part of the record before the Board unless appended to the Exceptions or opposition thereto which the party files with the Board. Failure to append to the submission to the Board copies of evidence timely submitted to the Regional Director and not included in the Regional Director's Supplemental Decision shall preclude a party from relying upon that evidence in any subsequent related unfair labor practice proceeding.



LOCAL 1430 IBEW AFL-CIO-CLC

901 N. BROADWAY SUITE # 16 WHITE PLAINS, NY 10603
PHONE # 914-948-3771

Fax # 914-948-3361

June 21, 2011

Via Facsimile

To: Mr. Alvin P. Blyer / Regional Director
NLRB Region 29
Two Metro Tech Center.
100 Myrtle Avenue, 5th Floor
Brooklyn, NY 11201-4201

Re: Raymour and Flanigan Furniture Inc election objections.
CASE # 29-RC-12056

Dear Mr. Blyer:

I.B.E.W Local Union 1430 (the "Union"), by its business agent Cesar Alarcon, wishes to file the following objections to the June 15, 2011 representation election with Raymour and Flanigan Furniture Inc. (the "Employer"). Specifically, the objections are as follows:

1. During the campaign period the Employer by its officers and agents interrogated individual employees concerning their support of, and involvement with, the Union.
2. The Employer solicited from the bargaining unit employees grievances concerning their working conditions.
3. The Employer removed the store manager for whom the employees voiced discontent, and replaced that manager with a bargaining unit employee.
4. The Employer created and distributed false and misleading campaign propaganda. Specifically, the Employer told employees that if the union gets elected the company will negotiate benefits from "zero", announced that the company will not be obligated to reach an agreement with the Union, and nobody will force the Employer to agree to any of the Union's proposed collective bargaining terms and conditions.

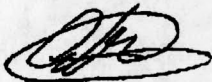
Exhibit "A"

5. The Employer threatened employees as follows:
 - A) Electing the Union will cause a tremendous loss of business and force the store to close.
 - B) Electing the Union will cause restrictions on job promotions.
 - C) Electing the Union will result in a loss of wages and benefits.
 - D) Electing the Union will result in union strikes where no employee will get paid.
 - E) Telling employees that electing the Union will result in losing the right to have any matter resolved absent the Union, and that the Employer will no longer communicate directly with employees.
6. The Employer surveilled the bargaining unit employees during the campaign period.
7. The Employer threatened retaliation against the bargaining unit employees if they joined, supported, or selected the Union as their collective bargaining representative.

By these and other unlawful acts, the Employer interfered with the laboratory conditions of the election, and/or intimidated, restrained, and coerced the bargaining unit employees in the free exercise of their rights under the Act.

I kindly request that the objections to this election be investigated and that upon their merits, the election that took place on June 15, 2011 be set aside and that a new election be conducted where the employees will be free to choose their representative without fear of the Employer's reprisal.

Respectfully Submitted;



Cesar A. Alarcon
Business Agent
Local 1430 IBEW

cc: Jordán Elhag /
Business Mgr.
Local 1430 IBEW